



# State of Wisconsin

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STEPHEN R. MILLER  
CHIEF

February 15, 2013

## MEMORANDUM

**To:** Representative Kleefisch

**From:** Joseph T. Kreye, Sr. Legislative Attorney, (608) 266-2263

**Subject:** Technical Memorandum to **2013 AB 5** (LRB-0146/1) **by DOR**

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We received the attached technical memorandum relating to your bill. This copy is for your information and your file.

If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

## MEMORANDUM

February 12, 2013

**TO:** Joe Kreye  
Legislative Reference Bureau

**FROM:** Paul Ziegler  
Department of Revenue

**SUBJECT:** Technical Memorandum on 2013 AB 5 – relating to sales and property tax exemptions for property used by commercial radio and television stations.

The department has the following concerns with the bill:

1. The proposed sales tax exemption is restricted to items "used exclusively and directly in the origination of or integration of various sources of certain program material." The stand-alone sentence stating "This subsection applies to vehicles licensed for highway use and equipment used to transmit or receive signals from a satellite" creates some ambiguity, however, because the sentence does not explicitly require exclusive and direct use. If the author's intent is for the exclusive and direct use criteria to apply, this sentence is unnecessary as the vehicles and equipment would be a subset of the tangible personal property exemption in the proposal. Alternatively, if the author's intent is for a broader scope of motor vehicles and satellite equipment to qualify for the exemption (beyond that which is used exclusively and directly in the origination or integration of program material), the department suggests that a separate exemption be created for motor vehicles and satellite equipment and that the separate exemption include the intended qualifications.
2. It is unclear if the sales tax exemption for fuel or electricity only applies to the operation of equipment, or if the exemption extends more broadly to the heating and powering of an entire structure used only in part for the origination or integration of program material. If the intention of the author is to only exempt fuel and electricity used exclusively and directly in the origination or integration of certain program material, the department suggests that "exclusively and directly" be inserted after "consumed" on page 2, line 17.
3. The phrase "generally available to the public free of charge without a subscription or service agreement" suggests the sales tax exemption may apply even though some program material may be for sale by subscription or service agreement. In order to define this amount, the department suggests replacing "generally" with "primarily" and adding a reference to the definition of "primarily" under sec. 77.54(57)(a)(1m)4, which means more than 50%.

4. The property tax exemption applies to real and personal property. We therefore suggest that the proposed section be added at the end of sec. 70.11, the section for real property exemption.
5. The proposed property exemption applies to "property of a commercial radio or television station used" for the specified purposes. Most property tax exemptions, however, require both ownership and exclusive use in order to qualify for an exemption. To establish parallel treatment with other exemptions, we suggest that the proposed section begin as follows: "Real and personal property owned by a commercial radio or television station that is exclusively used in the ..."
6. The bill provides that the property tax exemption takes effect on January 1, 2013. This date creates problems since the deadline for requesting an exemption from property taxes for 2013 is March 1, 2013. The department will also need time to notify assessors of the law change and to provide materials so that the law change can be properly administered. We suggest that the proposed exemption take effect on January 1, 2014, so that the exemption can be accurately and consistently applied across the state.

If you have questions regarding this technical memorandum, please contact Bob Schmidt at (608) 267-9892 or [robertk1.schmidt@revenue.wi.gov](mailto:robertk1.schmidt@revenue.wi.gov).

cc: Representative Kleefisch